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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/510,054	10/01/2004	Tomohiko Kubo	0020-5305PUS1	6320
2292	7590	07/19/2006	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			KAUFMAN, JOSEPH A	
			ART UNIT	PAPER NUMBER
			3754	

DATE MAILED: 07/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/510,054

Applicant(s)

KUBO ET AL.

Examiner

Joseph A. Kaufman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/1/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Specification

1. The disclosure is objected to because of the following informalities: headings, i.e. "Brief Description of the Drawings", should be added to the specification.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In amended claim 1, page 34, line 18, "may be" renders the claim vague and indefinite as it is unclear what features are required to meet the claimed limitations.

In claim 4, the sets of grooves and both filters are positively recited for a second time, thus raising issues of double inclusion.

In claim 9, the filter-mounting member on line 3 and the grooves on line 9 are positively recited for a second time, raising issues of double inclusion.

Many of the features of claim 12 are positively recited for a second time, raising issues of double inclusion.

Please check all of the claims for similar deficiencies.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanes Pub. No. 04-006052 to Koji in view of Sawan et al.

Koji shows a body 1 having a mouth; nozzle member 10 having a top wall; cap 2; skirt portion seen in Figure 1; nozzle 10; hole at 10; air hole 4; hydrophobic filter 5; and hydrophilic filter 3. Koji lacks the filter mounting member, grooves, details of the filter including the shape and the bore size, and the flow control member. Sawan et al. shows a filter mounting member 11, 12; grooves 22, 23 that are annular and radial; both the hydrophobic and hydrophilic filters are flat and welded to the mounting structures as discussed in column 5, line 26; and the bore size is discussed in column 6, lines 17-33. It would have been obvious to one of ordinary skill in the art to provide the specific mounting and filter structures as taught by Sawan et al. on the device of Koji in order to make the device more bacteriostatic or bacteriocidal. Further, the placement of the filters on either side of the cap would have been obvious dependent on manufacturing considerations and ease of replacement. Finally, placing a check valve or diaphragm in

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order to control the air flow into the container would have been obvious in order to further prevent contamination of the substance by providing yet another barrier.


Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rossi et al. shows a multiple filter structure; Wade et al. and Matkovich et al.(both) show filter mounting means; and Shiraishi et al. and Uetake et al. show hydrophobic and hydrophilic filters.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph A. Kaufman whose telephone number is (571) 272-4928. The examiner can normally be reached on Monday-Thursday, 5:30AM-2PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Joseph A. Kaufman
Primary Examiner
Art Unit 3754
7/6/06

jak
July 6, 2006